

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Eighth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL MISCELLANEOUS PETITION No.460 of 2020

IN CRL.A.NO.574 OF 2019

PADMAPRIYA

[PETITIONER]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
B-5, SINGANALLUR POLICE STATION,
COIMBATORE CITY,
(CRIME NO.1887/2013).

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.574/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against her by the trial court in the judgment dated 07.08.2019 made in S.C.No.77/2015 on the file of the Mahalir Neethimandram, Coimbatore and enlarge the petitioner on bail, pending disposal of the above criminal appeal.[CRL.MP.NO.460/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.574/2019 on the file of the High Court and upon hearing the arguments of M/S.P.M.DURAI SWAMY, Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **R. Subbiah, J**)

The petitioner is the first accused in Sessions Case No. 77 of 2015 on the file of the learned Sessions Judge, Mahila Court, Mahalir Neethimandram, Coimbatore. She along with seven others have faced trial in the aforesaid Sessions Case for the offences punishable under Section 120 (b), 147, 148, 460 and 302 of Indian Penal Code (in short IPC) read with Section 109 of IPC, 302 read with 149 IPC and 302 read with 120 (B) of IPC. After trial, the petitioner/A-1 was found guilty of the charges and therefore, by Judgment dated 07.08.2019, she was convicted for the offences as under:-

Offence for which sentenced	Sentence
Section 302 read with 120 (B) IPC	To undergo life imprisonment and to pay fine of Rs.1,000/- in default to undergo rigorous imprisonment for one year
Section 147 of IPC	To undergo rigorous imprisonment for a period of two years with fine of Rs.500/-, in default to undergo rigorous imprisonment for six months
Section 460 of IPC	To undergo life imprisonment with fine of Rs.1,000/-, in default to undergo rigorous imprisonment for one year
Section 302 of IPC read with Sec. 34 of IPC	To undergo imprisonment for life with fine of Rs.1,000/-, in default to undergo rigorous imprisonment for one year.

2. However, the aforesaid sentences were ordered to run concurrently against the petitioner/first accused.

3. Challenging the Judgment dated 07.08.2019 passed by the court below, the present Criminal Appeal has been filed.

4. Pending Criminal Appeal, the petitioner/A-1 has filed the above Petition for suspension of substantial sentence of imprisonment.

5. The case of the prosecution is that the deceased Padmapriya is the mother in law of the petitioner/first accused. PW3 Balasubramanian is the husband of the petitioner/first accused and son of the deceased Padmapriya. PWs 1 and 2 are the daughters of the deceased Padmapriya. The deceased, her son PW3 and the petitioner/first accused were jointly residing in the house at Door No.4, Bodi Naicker Street, Irugur Pirivu Road, Ondipudur, Coimbatore. According to the prosecution, PW3 and the petitioner/first accused were residing in one portion of the house and in the other portion, the deceased was residing. It is the case of the prosecution that even though the property mentioned above stands in the name of PW3, it was the deceased who was wielding control over the property, including collection of rent thereof from the tenants and it was entirely utilised by the deceased herself. It is also the case of the prosecution that the deceased and the petitioner/first accused were not in good terms and therefore, separate living has become necessary.

6. It is the case of the prosecution that 10 days prior to 26.12.2013, the petitioner/first accused, who is working in City Developers Company, requested her co-worker Ganesan to arrange hooligans to do away with the life of the deceased and offered to pay whatever amount that is required for such purpose. Accepting such

offer, the said Ganesan in turn engaged the accused Mahendran to commit the murder of Ranganayagi, who in turn arranged the other accused Sekar, Rajendran, Karunamoorthy @ Karunakaran, Chandrasekaran @ Cho through one Palani @ Palanisamy. The aforesaid persons arranged by Ganesan have hatched a criminal conspiracy to do away with the life of the deceased Ranganayagi. With such common intention, all the aforesaid persons, except Ganesan and Rajendran decided to do away with the life of the deceased on 26.12.2013 since PW3 Ganesan was on Sabarimala Pilgrimage and that the deceased was residing alone. Accordingly, on 26.12.2013, all the aforesaid persons, except Ganesan and Rajendran have trespassed in to the house to commit the murder of the deceased conjointly. In pursuance of the above common object, the accused Karunakaran cut the neck of the deceased with a knife and caused her death instantly.

7. The trial court, on analysing the oral and documentary evidence produced before it, convicted and sentenced the petitioner/first accused, as hereinbefore mentioned.

8. The learned counsel appearing for the petitioner would contend that there was no eye witness to the occurrence and this is a case of circumstantial evidence. As far as the petitioner/first accused is concerned, she was convicted by the trial court solely on the basis of the alleged extra judicial confession given by her to the Village Administrative Officer (PW8). As per the evidence of Village Administrative Officer, PW8, the VAO office is just 300 feet away from the place of occurrence and it is very difficult to believe that she was unaware of the murder until the alleged extra-judicial confession was made by the petitioner at 10:00 a.m. on 27.12.2013, despite the Police investigating the matter since 26.12.2013 early morning. The husband of the petitioner, PW3 in his evidence had deposed that he and his wife Padmapriya were summoned to the Police Station at about 1:00 a.m. on 27.12.2013 and he was let out at 4:00 a.m. but his wife was detained. While being so, there was no possibility of the petitioner making the alleged extra judicial confession before VAO at 10:00 a.m. on 27.12.2013. Above all, it is submitted that the petitioner is presently confined at Central Prison for Women, Coimbatore for the past 170 days. There are several infirmities and inconsistencies found in the prosecution case. The final hearing of the above appeal may take some time and therefore also, he prayed for suspending the substantial sentence of imprisonment of the petitioner.

9. The learned Additional Public Prosecutor vehemently opposes to grant suspension of sentence to the petitioner and she prayed for dismissal of this petition.

10. Having regard to the grounds raised in the Memorandum of Grounds of Criminal appeal filed by the petitioner and the submission of the learned counsel for the petitioner, we are inclined to grant suspension of sentence to the petitioner/accused pending the final disposal of the Criminal Appeal.

imposed against the petitioner/first accused by the trial court in the Judgment dated 07.08.2019 passed in S.C. No. 77 of 2015 alone is suspended and the petitioner/first Accused is directed to be enlarged on bail on condition that she shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Mahalir Neethimandram, Coimbatore and on further condition that she shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
28/01/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

- 1 THE SESSIONS JUDGE
MAHILA COURT, MAHALIR NEETHIMANDRAM,
COIMBATORE
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, FOR WOMEN, COIMBATORE
- 3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.
- 4 THE INSPECTOR OF POLICE,
B-5, SINGANALLUR POLICE STATION,
COIMBATORE CITY,

+1 C.C. to M/S.P.M.DURAI SWAMY Advocate on payment of necessary charges SR.NO. 1577

WEB COPY

Order

in
CRL MP.460/2020

IN CRL.A.NO.574 OF 2019

Date :28/01/2020

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RD 30/01/2020

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